

COURT UNITED STATES DISTRICT COURT
COUNTY OF SOUTHERN DISTRICT OF NEW YORK

DEUTSCHE BANK TRUST COMPANY AMERICAS, IN ITS CAPACITY AS SUCCESSOR INDENTURE TRUSTEE FOR CERTAIN SERIES OF SENIOR NOTES, LAW DEBENTURE TRUST COMPANY OF NEW YORK, IN ITS CAPACITY AS SUCCESSOR INDENTURE TRUSTEE FOR CERTAIN SERIES OF SENIOR NOTES, AND WILMINGTON TRUST COMPANY, IN ITS CAPACITY AS SUCCESSOR INDENTURE TRUSTEE FOR THE PHONES NOTES Plaintiff(s) against

ADALY OPPORTUNITY FUND TD SECURITIES INC. C/O ADALY INVESTMENT MANAGEMENT CO., ET AL., Defendant(s)

Index No. 1:11-CV-04784-UA

**AFFIDAVIT OF
SERVICE OF SUMMONS
(AND COMPLAINT)**
IN A CIVIL ACTION
AMENDED

STATE OF NEW YORK, COUNTY OF NEW YORK

party herein, is over 18 years of age and resides at OLD BRIDGE, NEW JERSEY ROOM 1001
That on 9/9/11 at 2:41 P.M., at 654 MADISON AVENUE, NEW YORK, NEW YORK 10065
deponent served the within summons, and complaint on DR. DAVID L. HOEXTER defendant therein named,
IN A CIVIL ACTION
AMENDED, EXHIBIT A

- INDIVIDUAL by delivering a true copy of each to said defendant personally; deponent knew the person so served to be the person described as said defendant therein.
- CORPORATION a corporation, by delivering thereat a true copy of each to personally, deponent knew said corporation so served to be the corporation described in said summons as said defendant and knew said individual to be thereof.
- SUITABLE AGE PERSON by delivering thereat a true copy of each to EVELYN BURGER (CO-WORKER) a person of suitable age and discretion. Said premises is defendant's—actual place of business—dwelling place—usual place of abode—within the state.
- AFFIXING TO DOOR, ETC. by affixing a true copy of each to the door of said premises, which is defendant's—actual place of business—dwelling place—usual place of abode—within the state. Deponent was unable, with due diligence to find defendant or a person of suitable age and discretion thereat, having called there

MAILED ON 10/14/11 AT 2:20 P.M.

MAILING TO RESIDENCE USE WITH 3 OR 4

MAILING TO BUSINESS USE WITH 3 OR 4

Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a postpaid envelope properly addressed to defendant at defendant's last known residence, at and deposited said envelope in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. Within 20 days of such delivery or affixing, deponent enclosed a copy of same in a first class post paid envelope properly addressed to defendant at defendant's actual place of business, at 654 MADISON AVENUE, ROOM 1001 NEW YORK, NEW YORK 10065 in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State. The envelope bore the legend "Personal and Confidential" and did not indicate on the outside thereof, by return address or otherwise, that the communication was from an attorney or concerned an action against the defendant.

DESCRIPTION USE WITH 1, 2, OR 3

- | | | | | | | |
|--|--|--|---|---------------------------------------|---|--|
| <input type="checkbox"/> Male | <input checked="" type="checkbox"/> White Skin | <input type="checkbox"/> Black Hair | <input type="checkbox"/> White Hair | <input type="checkbox"/> 14-20 Yrs. | <input type="checkbox"/> Under 5' | <input type="checkbox"/> Under 100 Lbs. |
| <input checked="" type="checkbox"/> Female | <input type="checkbox"/> Black Skin | <input checked="" type="checkbox"/> Brown Hair | <input type="checkbox"/> Balding | <input type="checkbox"/> 21-35 Yrs. | <input type="checkbox"/> 5'0"-5'3" | <input checked="" type="checkbox"/> 100-130 Lbs. |
| | <input type="checkbox"/> Yellow Skin | <input type="checkbox"/> Blonde Hair | <input type="checkbox"/> Mustache | <input type="checkbox"/> 36-50 Yrs. | <input checked="" type="checkbox"/> 5'4"-5'8" | <input type="checkbox"/> 131-160 Lbs. |
| | <input type="checkbox"/> Brown Skin | <input type="checkbox"/> Gray Hair | <input type="checkbox"/> Beard | <input type="checkbox"/> 51-65 Yrs. | <input type="checkbox"/> 5'9"-6'0" | <input type="checkbox"/> 161-200 Lbs. |
| | <input type="checkbox"/> Red Skin | <input type="checkbox"/> Red Hair | <input checked="" type="checkbox"/> Glasses | <input type="checkbox"/> Over 65 Yrs. | <input type="checkbox"/> Over 6' | <input type="checkbox"/> Over 200 Lbs. |

Other identifying features:

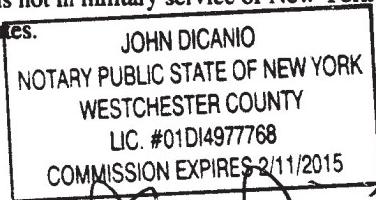
USE IN NYC CIVIL CT.

The words "CONSUMER CREDIT TRANSACTION" were prominently displayed at the top of the summons(es) and the additional legend was printed in not less than 12 point bold upper case type on the summons(es) pursuant to 22 NYCRR §208.6(d) and (f).

MILITARY SERVICE

I asked the person spoken to whether recipient was in active military service of the United States or of the State of New York in any capacity whatever and received a negative reply. ~~XXXXXXXXXXXXXX~~ The source of my information and the grounds of my belief are the conversations and observations above narrated. Upon information and belief I aver that the recipient is not in military service of New York State or of the United States as that term is defined in either the State or in the Federal statutes.

Sworn to before me on
10/14/11

PRINT NAME BENEATH SIGNATURE
ANDREW BOTWINICK

License No. 1305403

INSTRUCTIONS: Check appropriate boxes and fill in blanks. Delete inappropriate italicized language and military service allegation if not applicable.